

CARL WEITLANNER

JULY 20, 1951.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CHELF, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 2505]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2505) for the relief of Carl Weitlanner, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

On line 4, after the words "section 307 (a)" insert "(1)".

On line 5, after "1940" insert ", as amended,".

On line 5, after the name "Carl Weitlanner" change the semicolon to a period and strike out the remainder of the bill.

PURPOSE OF THE BILL

The purpose of the bill is to preserve the continuity of residence for naturalization purposes of a native Austrian permanently residing in the United States, notwithstanding his prolonged involuntary absence abroad.

GENERAL INFORMATION

The pertinent facts in this case are set forth in a letter, dated August 16, 1950, from the Acting Deputy Attorney General to the chairman of the committee, regarding a bill (H. R. 6145) pending in the Eighty-first Congress for the relief of the same person, as follows:

AUGUST 16, 1950.

HON. EMANUEL CELLER,

Chairman, Committee on the Judiciary,

House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 6145) for the relief of Carl Weitlanner, an alien.

The bill would provide that in the administration of the naturalization and immigration laws, section 307 (a) of the Nationality Act of 1940 shall not apply to Carl Weitlanner, and for the purpose of his naturalization he shall be considered to have entered the United States for permanent residence on May 28, 1940, at the port of New York.

Section 307 (a) of the Nationality Act of 1940 requires that a petitioner for naturalization shall have resided in the United States continuously for a period of 5 years immediately prior to the date of the filing of his petition. It is this provision of law which the bill would make inapplicable to Mr. Weitlanner.

The records of the Immigration and Naturalization Service of this Department indicate that Mr. Weitlanner is a native and citizen of Austria who was born on July 19, 1902, at Freyenthurn, Austria. He was first admitted to the United States for permanent residence at the port of New York on September 5, 1938, and on November 16, 1938, he filed a declaration of intention to become a United States citizen. Subsequently, on December 7, 1938, he departed from the United States on business for his employer, a subsidiary of an American corporation, and in possession of a valid reentry permit, which was subsequently extended to June 2, 1940. On May 28, 1940, Mr. Weitlanner returned to the United States, but thereafter, on July 25, 1940, he again departed, this time on personal business, in possession of another reentry permit valid to July 23, 1941. During the period following his last departure from the United States he obtained a divorce from his first wife and on December 5, 1942, at Bucharest, Rumania, married his present wife. She subsequently entered the United States as a student on March 24, 1949, and had her status adjusted to that of a permanent resident through private legislation.

The reentry permit with which Mr. Weitlanner departed from the United States on July 25, 1940, was never extended beyond its original expiration date despite the fact that application was made for such extension because of the alien's inability to complete the personal business for which he had gone abroad. After the application for extension of the reentry permit was denied, the American legation in Bucharest was closed, making it impossible for Mr. Weitlanner to obtain a visa with which to return to the United States. He was not thereafter able to obtain a visa until November of 1948. On January 19, 1949, Mr. Weitlanner was last admitted to the United States at the port of New York in possession of a section 4 (b) nonquota immigration visa as a returning resident.

Mr. Weitlanner is a lawful permanent resident of the United States and may continue to reside in this country indefinitely. The record presents no compelling reasons for granting him a preference in naturalization over other resident aliens, many of whom rendered valuable assistance to the United States during World War II while Mr. Weitlanner was abroad. He should be required to comply with the provisions of section 307 (a) of the Nationality Act of 1940 by residing in the United States continuously for a period of 5 years immediately prior to the date of filing a petition for naturalization. On the basis of his lawful admission of January 19, 1949, Mr. Weitlanner is eligible to file a declaration of intention to become a United States citizen, and will be eligible to file a petition for naturalization on January 20, 1954, or 2 years after filing his declaration of intention, whichever is later.

Accordingly, the Department of Justice is unable to recommend enactment of this bill.

Yours sincerely,

PETER CAMPBELL BROWN,
Acting Deputy Attorney General.

The following excerpt of a statement submitted by Mr. Weitlanner to the committee sets forth in detail the circumstances of his enforced absence:

I am a native of Austria, which after its annexation to Nazi Germany in March 1938 I left to go first to Budapest, Hungary, where I applied to the American consul at that city for an immigration visa. Having obtained quota visa No. XXXX under the German quota, I set out for the United States, which I lawfully entered at New York, N. Y., on September 5, 1938. My declaration of intention to become a citizen of the United States, the so-called first paper, was deposited in the district court at New York, N. Y., on November 16, 1938, and bears the number 423924. As my then employer, the Socony-Vacuum Oil Co., Inc., still required my services in Europe, I had to leave America again on December 7, 1938, supplied with reentry permit No. 1223893 subsequently extended until June 2, 1940. The

outbreak of the war soon put an end to my work that had been confined to Hungary, Rumania, Czechoslovakia, and Poland, and although I had not yet completely wound up my personal affairs, the fear that my reentry permit might not be extended a second time prompted my hurried departure for America, which I reentered at New York, N. Y., on May 28, 1940. However, it soon turned out that it was impossible to settle from America the matters I had been forced to leave pending in Europe. Moreover my fiancée who lived at Bucharest, Rumania, was still waiting to be granted an immigration visa in order to be able to join me, but the Rumanian quota being very small there was no chance she would get out before Europe was completely engulfed by the catastrophe that had just begun to take its course. In order to marry her and thereby improve her immigration status, I left this country again on July 25, 1940, supplied with reentry permit No. **XXXXXX**.

Soon after my arrival in Rumania a Fascist regime was set up there, and by the time my reentry permit was about to expire I found it impossible to secure the necessary visas through the Axis controlled territories I should have had to cross to reach an Atlantic seaport from which to sail back to America. Hence I had to apply for an extension of my second reentry permit, which after a long delay, during which I had been able to procure visas that would have enabled me to proceed to America via Turkey, was denied. The respective mimeographed letter of the Immigration and Naturalization Service, dated September 2, 1941, stated that the refusal was due to "the circumstances surrounding your case."

It is worth while to look into these circumstances. Briefly outlined they were as follows: Prior to immigration I had worked for 8 years in the services of an American owned company. I left my native country immediately after it was overrun by the Nazis, and had not set foot on its soil again when I applied for the extension of my second reentry permit. It was owing to circumstances over which I had no control that I was prevented from effecting my return to America within the term of that reentry permit. Incidentally the circumstances that have surrounded my case since then, were of a piece with those just outlined. Finding myself stranded in Rumania with the roads back to America cut off for the duration of the war, I had to cast about for a way to earn a living. Employment in industry was out of the question as amounting at least indirectly to collaboration. So I took up tutoring for which there was a brisk demand, a large number of students having been barred from attending colleges and universities, as a result of racial discrimination that had then set in. At the beginning of 1943 I was persecuted on a charge of spreading pro-American propaganda, and had to flee to Hungary which then was still ruled by a Government whose relation to the Axis Powers was rather lukewarm. After my return to Rumania in 1945, my wife's mother having remained there, I went on tutoring until a similar charge prompted my wife's and my hurried exodus from Rumania in November 1947. We went to Vienna, Austria, where during the first half of 1948 I acted as a teacher in camp schools for DP's. The second half of 1948 I was employed as statistical analyst in the Reports Control Branch, Office of the Director, USACA, headquarters United States forces in Austria.

It was not until May 1948 that the limitations in the jurisdiction of the United States Foreign Service in Austria were lifted to the extent of enabling the American consul at Vienna to accept my application for the issuance to me of a nonquota immigration visa on the strength of my having to be considered as "an immigrant previously lawfully admitted to the United States who is returning from a temporary visit abroad for permanent residence." By October 1948 the processing of my application was completed. However, as the task assigned to me at headquarters USFA, viz, to plan and prepare the issue of a statistical annex to the monthly report of the United States High Commissioner for Austria, had not been accomplished until mid-December I could leave Vienna on January 1, 1949, only. On January 19, 1949, I reentered the United States at the port of New York, N. Y., for permanent residence.

I hope I have made it clear in the foregoing account that the length of my absence from this country was solely and entirely determined by circumstances over which I had no control at all. It has always been the practice of the Immigration and Naturalization Service of the Department of Justice to grant at least one extension of 6 months of the validity of reentry permits. There was nothing in the real circumstances surrounding my case, which would have justified their deviating from this practice, and refusing me an extension. In fact there was much arguing in favor of it. Through their completely unmotivated refusal of my application they have caused me no end of harm. They exposed me to perse-

cution and all the perils that daily menaced the lives of the civilian population of the areas where I was forced to stay during the war. They cut short my highly promising career with Socony-Vacuum Oil Co., Inc., so that I see myself obliged to start again from scratch so to speak, which at my age is a rather tough proposition, the more so as my not enjoying full citizen status bars me from large areas of employment to which I should otherwise be eligible.

It would, therefore, be only fair and equitable for the Immigration and Naturalization Service to rule that my absence from the United States between 1940 and 1949 be computed as continuous residence therein, rendering me thus eligible for immediate naturalization.

Such a solution would also remove another hardship under which I am laboring at present, viz, the inability of my wife within a year at least to obtain a quota visa, since my present status confers only second preference on her, which in view of DP's being currently charged against that portion of the quota is a worthless privilege under the present circumstances.

I shall be glad to furnish you any further details you might require in the endeavor you kindly consented to undertake of exploring the problem of my status.

The following quoted letter from the Chief of the Reports Control Branch of the Office of the Director, USACA, was presented by Mr. Weitlanner:

HEADQUARTERS, UNITED STATES FORCES IN AUSTRIA,
APO 777, United States Army, December 31, 1948.

DEAR MR. WEITLANNER: From my point of view as Chief of the Reports Control Branch of the Office of the Director, USACA, it is with very great regret to see you leave this office. However, as a friend of yours, I feel very happy that you have succeeded in getting your visa, and I am also glad to know that a person with your knowledge and your ability is going to the U. S. A. to start a new life there. I am sure you will be an asset to our country and I believe I can tell that with certainty from the excellent and able way in which you have performed your duties in this office. Your knowledge of languages, of the people, and of the economic conditions in this country have given you an excellent background to perform the difficult task, which you were assigned to do. In addition to that, your sincerity and industry have helped you to cope with any pressure of work. And finally your excellent judgment in matters of economics has enabled you to make the right decisions at the right time and in the right place.

I want to take the opportunity of thanking you again for the outstanding work you have done for this office and for this headquarters, and I wish you Godspeed on your voyage and good luck for your future life in the United States.

Sincerely yours,

Dr. WOLFGANG P. VON SCHMERTZING,
Chief, Reports Control Branch, Office of the Director, USACA.
(Present address: 1820 Kilbourne Place NW., Washington, D. C.)

Upon consideration of all the facts in this case, the committee is of the opinion that H. R. 2505, as amended, should be enacted and it accordingly recommends that the bill do pass.

